



IN 09/954,763

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: THOMPSON ET AL. Examiner: S. WEBB
Serial No.: 09/954,763 Group Art Unit: 3731
Filed: SEPTEMBER 17, 2001 Docket No.: 11576.51USI1
Title: CATHETER SYSTEM WITH SPACER MEMBER

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on SEPTEMBER 8, 2004.

By: Kate Gannon

Name: KATE GANNON

TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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PATENT TRADEMARK OFFICE

Dear Sir:

Petitioner, ev3 Peripheral, Inc., a corporation organized and existing under the laws of the State of Minnesota and having its primary place of business at 4600 Nathan Lane North, Plymouth, Minnesota 55442 represents that it is the owner of the entire right, title and interest in U.S. Patent Application Serial No. 09/954,763, filed on September 17, 2001 and entitled CATHETER SYSTEM WITH SPACER MEMBER, by virtue of our assignments recorded at Reel 014327, Frame(s) 0092, Reel 014337, Frame 0413 and Reel 012181, Frame 0603.

Petitioner, ev3 Peripheral, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,623,491 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,623,491, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

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In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of United States Patent No. 6,623,491, in the event that United States Patent No. 6,623,491 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

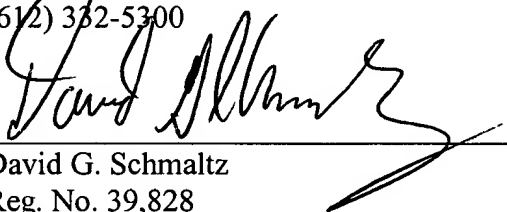
For submissions on behalf of an organization (e.g. corporation, partnership, university, government agency, etc.), the undersigned (Applicants attorney) is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted

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Date: 9/8/04



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